



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
December 7, 2017 09:58

By: REBECCA F. SCHLAG 0061897

Confirmation Nbr. 1244269

STATE OF OHIO, EX REL. MICHAEL DEWINE

CV 17 890101

vs.

NEW SCHOOL AUTO, LLC, ET AL.

Judge: CAROLYN B. FRIEDLAND

Pages Filed: 6

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

**STATE OF OHIO, ex rel.
MICHAEL DEWINE
Ohio Attorney General
Cleveland Regional Office
615 W. Superior Avenue, 11th Floor
Cleveland, Ohio 44113-1899**

Plaintiff,

-vs-

**NEW SCHOOL AUTO, LLC
3855 RIDGE ROAD
CLEVELAND, OH 44144**

And

**ABIGAIL FERRY
26750 VILLAGE LANE
OLMSTED FALLS, OH 44138**

Defendants

CASE NO.

JUDGE

**COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
RESTITUTION, CIVIL PENALTIES
AND OTHER APPROPRIATE RELIEF**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*

2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and in Cuyahoga County as well as other counties and are in violation of the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*

3. Defendants, as described below, are “supplier[s]” as that term is defined in R.C. 1345.01(C), as Defendants were, at all times relevant herein, engaged in the business of effecting or soliciting “consumer transactions” as that term is defined in R.C. 1345.01(A).

4. Defendants, as described below, engaged in “consumer transactions” by offering for sale, selling or financing the purchase of used motor vehicles to individuals for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).

5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Cuyahoga County.

6. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the CSPA.

7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Defendants reside in, operated their business from, and engaged in the transactions complained of herein in Cuyahoga County, Ohio.

STATEMENT OF FACTS

8. Defendant New School Auto LLC. (“New School”) is a domestic limited liability corporation conducting business in Cuyahoga County and in the State of Ohio with its principal place of business located at 3855 Ridge Road, Cleveland, OH 44144.

9. On information and belief, Defendant Abigail Ferry is an Incorporator, Statutory Agent and principal of New School Auto LLC. Defendant Ferry’s most recent address is 26750 Village Lane, Olmsted Falls, OH 44138.

10. At all times relevant herein, Defendant Abigail Ferry was a principal of New School Auto LLC, and dominated, controlled and directed the business activities and sales

conduct of New School Auto LLC and exercised the authority to establish, implement or alter the policies of New School Auto LLC, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

11. Defendants were at all times relevant to this action engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from their location on 3855 Ridge Road in Cleveland to consumers residing in Cuyahoga and other Ohio counties.

12. Defendants, operating under the name New School Auto LLC., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.

13. At all times relevant hereto, Defendants held and operated under a used motor vehicle dealer permit number license #UD020553 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling used motor vehicles.

14. Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.

15. Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.

16. Title Defect Rescission ("TDR") consumer claims totaling Thirty-three Thousand, Eight Hundred Seventy-six dollars and seventy cents (\$33, 876.70) have been paid thus far from the TDR Fund, administered by the Ohio Attorney General's Office, after Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.

17. R.C. 4505.181 requires that a dealer post a bond in an amount not less than

\$25,000 after the Attorney General has paid a retail purchaser of the dealer from the Title Defect Recision Fund.

18. After the payout was made from the Title Defect Recision Fund, the Defendants continued to operate without posting a bond.

**VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT
AND CSPA**

19. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through eighteen (1-18) of this Complaint.

20. Defendants engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02 by failing to file applications for certificates of title within thirty (30) days after the assignment of delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).

21. Defendants engaged in unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain certificates of title on or before the fortieth (40th) day of sale of the motor vehicles as required by R.C. 4505.181(B)(1).

22. Defendants failed to post a bond after the Attorney General paid a retail purchaser of the dealer from the Title Defect Recision Fund due to Defendants' failure to deliver title to the purchaser, as required by R.C. 4505.181.

23. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 *et seq.* The Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein violates the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.* in the manner set forth in this Complaint;
- B. ISSUE PERMANENT INJUNCTIVE RELIEF** enjoining Defendants, under these or any other names, and their officers, agents, servants, representatives, salespersons, employees, members, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, from further violating the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
- C. ORDER** Defendants liable for reimbursement to all consumers found to have been damaged by Defendants' unfair and deceptive acts and practices, and motor vehicle title violations.
- D. ORDER** Defendants jointly and severally liable for reimbursement to the TDR Fund for funds expended to resolve title defects caused by Defendants' motor vehicle title violations.
- E. ASSESS, FINE AND IMPOSE** upon Defendants, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each appropriate unfair or deceptive act alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. ORDER**, as a means of ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of five (5) years all business records relating to the Defendants' solicitation and sale of used motor vehicles in Ohio and to permit the

Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.

- G. ORDER** that the Defendants be enjoined from engaging in consumer transactions as suppliers in the State of Ohio until they have satisfied all reimbursement, civil penalties, any Attorney General costs to investigate and prosecute this action, and any court costs ordered herein.
- H. ORDER** that Defendant Abigail Ferry be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under R.C. Chapter 4517 until such time as the reimbursement and penalties herein ordered are paid.
- I. ORDER** Defendants, jointly and severally, to pay all court costs.
- J. GRANT** Plaintiff his costs in bringing this action and such further relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DeWINE
OHIO ATTORNEY GENERAL



REBECCA F. SCHLAG (0061897)
Senior Assistant Attorney General
Consumer Protection Section
Cleveland Regional Office
615 W. Superior Ave., 11th FL
Cleveland, OH 44113-1899
(216) 787-3030
Trial counsel for Plaintiff State of Ohio
Rebecca.Schlag@OhioAttorneyGeneral.gov

